

## **YELLOWSTONE COUNTY BOARD OF COUNTY COMMISSIONERS**

Resolution No. 16-76

### **Resolution of Intent to Abandon a Portion of Clear Creek Drive**

WHEREAS, pursuant to Sections 7-14-2101, 7-14-2102 and 7-14-2103 of the Montana Code Annotated, a board of county commissioners has the authority to manage county roads within the county. Pursuant to Section 7-14-2615 of the Montana Code Annotated, a board of county commissioners has the authority to abandon a county road after a public hearing.

WHEREAS, Clear Creek Drive is a dedicated, unconstructed public road within Yellowstone County. Yellowstone Meadows, Phase Two Subdivision, June 27, 1973, Doc. No. 937803. The Yellowstone County Board of County Commissioners has the authority to manage the Road, including the authority to abandon the Road. On December 15, 2015, the Board received a petition to abandon Clear Creek Drive. Sanderson Stewart, an engineering firm in Billings, submitted the petition on behalf of a developer in the area. The road was not constructed as depicted on the plat. Instead of being constructed in the road right-of-way, the road was constructed over a portion of a lot in the subdivision. The developer wants to vacate the road right-of-way where the road was not constructed and re-plat the area to indicate where it was constructed. The developer intends to develop the area. The property owners affected by the abandonment do not object to the abandonment. The Board reviewed the petition. The petition appeared legally sufficient to appoint a Board of Viewers to investigate the proposed abandonment. On March 15, 2016, the Board appointed a Board of Viewers. On May 16, 2016, the Board of Viewers submitted a report on the proposed abandonment. The Board of Viewers' Report recommended that the Board abandon the portion of the Road. On May 24, 2016, the Board set a public hearing on the proposed abandonment for June 7, 2016. On May 27, 2016 and June 3, 2016, the Yellowstone County Clerk and Recorder published notice of the public hearings and the petition in the *Billings Gazette*. The Board also sent notice of the hearing to the surrounding property owners.

WHEREAS, on June 7, 2016, the Board held a public hearing on the proposed abandonment. The Board heard comments on the proposed abandonment and considered the Board of Viewer's recommendation. The Board determined that it would be in the best interest of the public to abandon a portion of the Road. The portion of the Road is neither construed nor used by the public.

NOW THEREFORE, BE IT RESOLVED,

The Yellowstone County Board of County Commissioners intends to abandon a portion of Clear Creek Drive depicted on the Plat of Yellowstone Meadows - Phase Two Subdivision on the conditions that (1) the Petitioner shall record a document granting unto all utility companies (for existing public and private utilities) as such are defined and established by Montana Law, and cable television companies, a perpetual easement of a minimum of ten (10) feet in width for the location, maintenance, repair and removal of their lines and utilities over, under and across the roadway or alley areas in this abandonment. (2) Petitioner shall submit and record a plat aggregating the desired abandonment into Lot 32 of Block 1 of Yellowstone Meadows - Phase Two Subdivision and dedicating (to the public) the current road alignment (along the northern portion of Lot 32 of Block 1). (3) Petitioner has one year to complete all conditions for abandonment to be finalized. Once the property owner has filed an amended plat that indicates the abandonment, the Board will file a resolution that abandons the portion of the Road.

**Resolution No. 16-76**

**Resolution to Intent to Abandon a Portion of Clear Creek Drive**

Passed and Adopted on the 7 day of June 2016.

BOARD OF COUNTY COMMISSIONERS  
YELLOWSTONE COUNTY, MONTANA

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Bill Kennedy, Chairman  
Yellowstone County Commissioner

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James E. Reno, Member  
Yellowstone County Commissioner

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John Ostlund, Member  
Yellowstone County Commissioner

Attest:

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Jeff Martin  
Yellowstone County Clerk and Recorder